

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

EDITH R. TAYLOR,)
)
Plaintiff,) 8:07CV127
)
vs.) MEMORANDUM AND ORDER
)
WELLS FARGO BANK, et al.,)
)
Defendants.)

This matter is before the court on the Application to Proceed in Forma Pauperis ("IFP") (Filing No. 6) filed by the plaintiff, Edith R. Taylor. The plaintiff has now submitted an appropriate form containing sufficient information in support of an IFP application and executed under penalty of perjury. Filing No. 6 indicates that the plaintiff is financially eligible to proceed IFP. Therefore, the plaintiff's Application to Proceed In Forma Pauperis (Filing No. 6) is granted.

Because the plaintiff is proceeding IFP, her complaint is subject to initial review under the standards set forth in 28 U.S.C. § 1915(e)(2), which states:

- (2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—
 - (A) the allegation of poverty is untrue; or
 - (B) the action or appeal—
 - (i) is frivolous or malicious;
 - (ii) fails to state a claim on which relief may be granted; or
 - (iii) seeks monetary relief against a defendant who is immune from such relief.

Among others, the plaintiff has sued a financial institution and its employees, alleging racial discrimination in banking practices. Although the plaintiff purports to base her claim on 42 U.S.C. § 1983, it is unlikely that a private bank and its employees acted

"under color of state law" as is required for a claim premised on 42 U.S.C. § 1983. However, such matters are more appropriately left for later stages of this litigation, and the plaintiff may have an alternate statutory basis for her claim. Thus, this case need not be dismissed on initial review.

As initial review of the complaint is now completed, it is time for the plaintiff to obtain service of process on the defendants, as set forth below. Because the plaintiff is proceeding IFP, the U.S. Marshal will serve the defendants, after the plaintiff completes the appropriate forms.

IT IS ORDERED:

1. The plaintiff's Application to Proceed IFP (Filing No. 6), is granted.
2. The Clerk of Court shall send the plaintiff a summons and a form USM-285 for **each** defendant; the plaintiff shall, as soon as possible, return the completed forms to the Clerk of Court, as in the absence of the completed forms, service of process cannot occur.
3. Upon receipt of the completed forms, the Clerk shall sign each summons and forward it, together with a copy of the complaint, to the U.S. Marshal for service on each defendant; the Marshal shall serve each summons and complaint without payment of costs or fees; service may be by certified mail in accordance with Fed. R. Civ. P. 4 and Nebraska law, in the discretion of the Marshal.
4. Failure to obtain service of process on a defendant within 120 days from the filing of the complaint may result in dismissal of this matter without further notice as to that defendant; see Fed. R. Civ. P. 4(m);.
5. After an appearance has been filed by a defendant, the plaintiff shall serve on that defendant's counsel a copy of every future document submitted to the court and shall include with each document submitted to the court a Certificate of Service stating the date a true and correct copy of such document was mailed to each defendant's attorney. **if the plaintiff does not include a Certificate of Service indicating that a copy of a communication to the court has been sent to the other parties to the case via their**

attorney(s), the court will issue a Notice of Deficiency and might strike the plaintiff's communication from the record.

6. A defendant has twenty (20) days after receipt of a summons to answer or otherwise respond to a complaint.

7. The plaintiff shall keep the court informed of her current address at all times while the case is pending, as failure to do so may result in dismissal.

8. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court; the federal rules are available at any law library, and the local rules are available from the Clerk of Court at a minimal cost, and also on the court's web site at www.ned.uscourts.gov.

9. **IMPORTANT NOTE: Any communication filed by the plaintiff with the court must bear the plaintiff's original signature.**

DATED this 7th day of May, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge